

Matthew Birk

Deposition Excerpts

Matthew Robert Birk, 5/31/2002

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1 STATE OF MINNESOTA DISTRICT COURT
2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

3 - - - - -
4 Kelci Stringer, individually, and as
5 Personal Representative of the Estate
6 of Korey Stringer, and as Trustee for
7 the Heirs and Next-of-Kin of Korey
Stringer, and Kodie Stringer, a Minor,
through his Parent and Natural Guardian,
Kelci Stringer, and Cathy Reed-Stringer
and James Stringer,

8 Plaintiffs,

9 v.

10 Minnesota Vikings Football Club, LLC,
11 and Dennis Green and Michael Tice and
Fred Zamberletti and Chuck Barta and W.
12 David Knowles, M.D. and Mankato Clinic,
Ltd. and John Does 1 through 30 Natural
13 Persons or Entities Whose Names or
Identities are Unknown to Plaintiffs,

14 Defendants.

15 - - - - -

16

17 DEPOSITION OF

18 MATTHEW ROBERT BIRK

19 Taken May 31, 2002
20 Commencing at 2:00 p.m.

21

22

23 REPORTED BY DEBRA MCCUALEY POLLARD
PARADIGM REPORTING & CAPTIONING INC.
1400 RAND TOWER
24 527 MARQUETTE AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55402
25 (612) 339-0545

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1 the team meeting?

2 A No. He always sat behind me so I never -- it's
3 like an auditorium. We have assigned seats, kind
4 of. He always sat in the back; I sat more towards
5 the front.

6 Q And then you went to the offensive line meeting?

7 A Yes.

8 Q Did you talk to Korey Stringer at the offensive
9 line meeting?

10 A Yes.

11 Q What do you recall of that?

12 A The one thing I remember about that meeting is,
13 when he came in, there was some, what I would call
14 gentle ribbing. I know ever since I got to the
15 Vikings in 1998, he had had kind of a reputation
16 or a history of throwing up. And it was just kind
17 of one of these things, when he walked in --
18 there's not many of the older guys that are left,
19 the guys that would know about this, other than
20 myself and Dave Dixon and Coach Tice. And just
21 kind of some gentle ribbing for a few seconds and
22 then he -- he was upset that it happened, a little
23 embarrassed, but then he just kind of sat there
24 because we watched the film from the afternoon
25 practice and he hadn't participated, so . . .

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- 1 Q Did you rib him?
- 2 A A little bit, yeah.
- 3 Q What did you say?
- 4 A I don't remember. It was just maybe like a,
- 5 "Hey," (indicating), you know, kind of one of
- 6 those.
- 7 Q Do you remember, at the Monday night offensive
- 8 line meeting, him saying something like, "That's
- 9 enough"?
- 10 A I don't remember specifically, no. Korey's one of
- 11 those guys that no one ever really picked on him.
- 12 He was kind of off limits.
- 13 Q Why?
- 14 A I think out of respect for him, especially with
- 15 this group of linemen that we had had because he
- 16 was -- he was one of the elder statesman of the
- 17 offensive line and he had just made the Pro Bowl
- 18 so he was very well respected.
- 19 Q You get to be an elder statesman at a very young
- 20 age.
- 21 A In football, you do.
- 22 Q Did you respect him?
- 23 A Oh, yeah.
- 24 Q Can you describe to me what it was about him that
- 25 you respected?

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1 A I guess -- I was a fan of the Vikings before I
2 became a player, growing up here, and I remember
3 when he was drafted, in the media, they'd say he
4 was too heavy to play and this and that. I'd
5 watch him.

6 And then when I came to the Vikings, I know
7 he had lost a lot of weight since when he came
8 into the league. I don't know the exact numbers,
9 but I know he was rather thin compared to what he
10 used to be. And I just saw his work ethic every
11 day and how he worked. He's just one of those
12 guys that worked extremely hard every day in
13 practice.

14 Q Was he a leader of the offensive line?

15 A Yes.

16 Q Can you tell me: Was he already a leader when you
17 joined the Vikings?

18 A I would say he was, because he was a starter, and
19 he had played so much football that he was "a"
20 leader, probably not "the" leader.

21 Q Who do you think "the" leader of the offensive
22 line was?

23 A Randall McDaniel.

24 Q Is that when you began in 1998?

25 A In 1998, yeah.

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1 Q And in 2001, was Korey "a" leader or "the" leader?

2 A He was "the" leader.

3 Q And when had he moved from being "a" leader to
4 "the" leader?

5 A 2001, because of the off-season departure of Todd
6 Steussie, the other offensive tackle.

7 Q As a person, rather than as an athlete, did you
8 respect Korey Stringer?

9 A Yes.

10 Q Can you explain to me why?

11 A I think because of his relationship with his son.
12 I know that his son meant a lot to him. I
13 remember reading in an article, a newspaper
14 article, Korey just said how much his son meant to
15 him and since his son was born, his life had a new
16 meaning and new focus. That's why I respected
17 him.

18 Q Okay. Continuing with the offensive line meeting
19 on Monday, July 30th, 2001, in the evening, did
20 you make any observations of Korey Stringer at
21 that meeting?

22 A No.

23 Q Did you have any discussions with Korey Stringer,
24 other than what you've described about the gentle
25 ribbing when he came in?

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1 There's four hoses.

2 Q Okay. And did you notice how much he drank?

3 A No.

4 Q And then you saw him spit up?

5 A Right.

6 Q Can you describe that?

7 A It was just -- he was drinking and took the hose

8 away and spit up and it was clear. It was just --

9 seemed like it was the water that he was drinking.

10 He just kind of spit it up, threw it up.

11 Q What I'm trying to ascertain: Sometimes, you

12 know, you might drink some water and before you

13 even swallow it, you spit it out?

14 A No, it wasn't that.

15 Q He actually spit up?

16 A Yeah.

17 Q Like vomited?

18 A Yes.

19 Q And did he just do this once?

20 A Yes.

21 Q Okay. Can you describe: He was still in full

22 pads at this time?

23 A Yes.

24 Q Did he have his helmet on?

25 A No.

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- 1 Q Did you look at him?
- 2 A I saw him throw up, yeah.
- 3 Q Can you tell me if he was sweating?
- 4 A Everyone was sweating. The guy taping practice
- 5 was sweating. Yes, he was sweating.
- 6 Q Can you tell me if his jersey was wet?
- 7 A I can't say for sure. I'm sure it was.
- 8 Q Is this you (indicating)?
- 9 A That's me.
- 10 Q Number 78 in 4-A?
- 11 A Yeah.
- 12 Q Did you change your hair or do you just have a cap
- 13 on?
- 14 A My hair is a little redder now.
- 15 Q Do you know about what time this 4-A was?
- 16 A Yeah. This is before we stretch. It's the warmup
- 17 period, 8:45.
- 18 Q So it's the beginning of the morning?
- 19 A Yes.
- 20 Q Okay. And photograph 4-B, you're also in this
- 21 picture?
- 22 A Yes.
- 23 Q And can you tell me what exercise or drill this
- 24 picture is?
- 25 A This looks like a drill where there's just a line

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1 and you just hop back and forth.

2 Q Is that what's called agile footwork?

3 A No. This is -- I'm guessing, because we don't
4 have our helmets on, this is still in the warmup
5 period.

6 Q Between 8 --

7 A 8:45 and 8:50.

8 MR. O'NEAL: Be careful about guessing,
9 Matt.

10 THE WITNESS: All right.

11 BY MS. ROSELLE:

12 Q Exhibit 4-C, do you know what time -- or what
13 you're doing in this picture?

14 A Yeah. This is a drill where we just hop, crossing
15 over our feet, cross the line at the same time.

16 Q And where, on this schedule, is that?

17 A 8:45.

18 Q Is your jersey already wet from sweat at 8:45
19 (indicating)?

20 MR. O'NEAL: Objection. Lacking in
21 foundation; calls for speculation.

22 A I can't tell if there's any moisture on my jersey.

23 Q Can you tell if there's moisture on Korey
24 Stringer's jersey?

25 A Yeah, it looks like there is.

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1 Q Okay. I'm going to hand you what's been marked as
2 4-D and ask you if you can tell, by looking at
3 this picture, what time that drill is?

4 A I have no idea what time this is.

5 Q Do you know what that drill is?

6 A No. I can't tell.

7 Q Okay. 4-E, you probably can't tell there --

8 MR. O'NEAL: Are you asking if he can
9 tell what time it is?

10 MS. ROSELLE: What time it is.

11 MR. O'NEAL: Objection. Speculation.

12 BY MS. ROSELLE:

13 Q When you saw Korey Stringer at 10:45 on the
14 sidelines, do you recall if his jersey was as wet
15 as it is in 4-F?

16 MR. O'NEAL: Objection. Vague; lacking
17 in foundation.

18 A I don't recall.

19 Q Okay. I'm going to show you 4-G and ask you if
20 you can tell, from looking, what drill that was or
21 period?

22 A No, I can't.

23 Q Okay. I'm going to show you 4-J and ask you if
24 this is the Big Bertha drill after the practice
25 ended?

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1	Q	Did you hear him groan?
2	A	No.
3	Q	Did you hear him say anything else other than
4		"yes" to you?
5	A	He said, "Yes, get a trainer." Those were his
6		exact words to me.
7	Q	Do you recall how long it took the trainer to get
8		there?
9	A	A few seconds.
10	Q	Do you know who showed up?
11	A	I think his name is Paul.
12	Q	Do you know somebody by the name of D.J.?
13	A	I don't, no.
14	Q	Did you see more than one trainer show up?
15	A	I just saw Paul. He's the only one I remember.
16	Q	After you -- do you know what you yelled to get a
17		trainer?
18	A	Just yelled, "Trainer. Trainer." Kind of a
19		standard.
20	Q	And then you went over to Big Bertha?
21	A	Well, I was already in the vicinity of Big Bertha.
22	Q	And then what did you do?
23	A	I don't really remember. We were almost done.
24	Q	Do you know how much longer it was before you left
25		the field?

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1 A No, I don't.

2 Q Did you look back at Korey Stringer anymore?

3 A No.

4 Q Okay. So you finished up with Big Bertha and then
5 you went to the locker room?

6 MR. O'NEAL: Objection. Multiple;
7 vague.

8 A Started walking towards the locker room. He
9 wasn't on the ground any longer.

10 Q Did you see him hit Big Bertha?

11 A I saw him hit Big Bertha once, yes, and he
12 slipped.

13 Q Okay. Could you describe what you observed when
14 he slipped?

15 A Just kind of his foot slipped out from under him.
16 And it was a common occurrence because the gravel
17 pit that Bertha hung over was just loose rocks.
18 It was something that we had kind of complained
19 about for a while. It was just the way it was.

20 Q Was this the first year that those loose rocks
21 were there at Big Bertha?

22 A No.

23 Q It was no different this year than what you recall
24 from other years?

25 A No. Same.

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1 Q Did you talk to anyone to tell them that Korey
2 Stringer was lying on the ground, such as Coach
3 Tice?

4 A No.

5 Q Do you know if Coach Tice saw Korey Stringer lying
6 on the ground?

7 MR. O'NEAL: Objection. Lack of
8 foundation.

9 A I don't know.

10 Q Any other observations that you made of Korey
11 Stringer during the morning practice or after
12 practice on Tuesday, July 31st, 2001?

13 A No.

14 Q Did you ever see Korey Stringer again?

15 A No.

16 Q Did you go to the hospital?

17 A No.

18 Q How did you learn that Korey Stringer was in the
19 hospital?

20 A At the team meeting that night, Coach Green
21 addressed the team and told us about the
22 situation.

23 Q What did he say?

24 A He said that Korey wasn't doing real well and that
25 he was in the hospital, and he told the guys that

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1 don't go down there because you can't see him or
2 anything.

3 Q Were you surprised when you heard he was in the
4 hospital?

5 A Yes.

6 Q Why is that?

7 A Because I guess I saw him during the whole
8 practice. Even though I saw him, at the end of
9 practice, on his back, he still was coherent and
10 talking to me. It just didn't seem like it was
11 that serious at the time.

12 Q Well, he only said one phrase to you, right:
13 "Yes, get a trainer"?

14 MR. O'NEAL: Objection. Argumentative.

15 A I think of someone in the hospital in a coma, I
16 think someone would be incapacitated.

17 Q Do you know how long it takes for someone to die
18 from heatstroke?

19 MR. O'NEAL: Objection. Lack of
20 foundation.

21 A No.

22 Q Did you give any statements about what you knew
23 about Korey Stringer to anybody?

24 A Anybody meaning -- what I knew about --

25 Q What happened at training camp? Did you give a

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1 Q Tell me what you observed.

2 A I observed him on a knee and I asked him if he was
3 okay. I said, "Let's go down to Bertha," and he
4 stood up, grabbed his pads, because we had our
5 pads off and our helmets off when we were doing
6 the pass set drill. He grabbed his pads and
7 started walking over that way.

8 He was breathing kind of heavy. I asked him
9 if he was okay. He kind of grunted at me. He
10 didn't say yes or no; he just grunted. I asked
11 him if he wanted me to get him a trainer. He just
12 kind of grunted and sort of shook his head. I
13 just remember his dreadlocks kind of shaking back
14 and forth.

15 Q Did he shake his head as if to say no or to say
16 yes?

17 A To me, it seemed as he was shaking his head no.

18 Q But you're not sure?

19 A From what I observed, I think -- no, I'm not
20 positive, no.

21 Q Did you ask him if he wanted something to drink?

22 A No, I did not.

23 Q Okay. So you came up to him. Where was he when
24 you first saw him?

25 A After we did the pass set drill, specifically

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1 where was he? Like you want me to tell you on the
2 field?

3 Q Yeah, that's fine.

4 A I would say that he was on about the 40 or 50,
5 right in that area. Probably on, if you're
6 looking at it -- turn it like this (indicating).

7 Q I have another map. Hold on a minute. Okay.
8 Look at Dixon Exhibit 67, please.

9 A (Witness complies.)

10 Q Okay. This is a picture that Mr. Dixon drew the
11 other day. Do you agree that you started the pass
12 set drills down at the far end of the field?

13 A No, I don't agree.

14 Q Here's a piece of paper and a pen. Draw for me
15 the field --

16 MR. O'NEAL: You basically want him to
17 do the same diagram that Dixon did?

18 MS. ROSELLE: Yes.

19 BY MS. ROSELLE:

20 Q That's Big Bertha?

21 A Yeah.

22 Q Okay. Put "Big Bertha" next to it.

23 A (Witness complies.)

24 Q Show me where you were doing the pass set drills.

25 A We started -- if this is the goal line, we

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1 probably started on the 20 and we did them till we
2 got to about the 40 or 50 (indicating).

3 Q Can you put "20" there?

4 A (Witness complies.)

5 Q And then the "40" or "50."

6 MR. O'NEAL: Why don't you put both
7 "40" and "50."

8 A (Witness complies.)

9 Q Okay. Now draw -- put an X where you first
10 observed Korey Stringer.

11 A Probably about right here (indicating).

12 Q Put "KS" next to that.

13 A (Witness complies.)

14 Q Now, when you saw him in that location, was he
15 down on his knee?

16 A Yes.

17 Q Do you know what knee he was down on?

18 A No.

19 Q And you went up to him and asked him if he was
20 okay and he did not answer you, correct?

21 A He did not, no.

22 Q He just kind of grunted?

23 A Yeah.

24 Q Can you describe the grunt?

25 A Just kind of (indicating).

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1 MR. O'NEAL: How do you spell that?
2 THE WITNESS: It's u --
3 A It was very short.
4 Q And you said to him, "Let's go down to Big
5 Bertha"?
6 A Yeah.
7 Q Okay. Did you help him up?
8 A I don't remember if I did or not. I don't think
9 so.
10 Q But he got up?
11 A He got up.
12 Q Did he walk or run down to Big Bertha?
13 A He -- I think he started out walking and he
14 made -- I don't remember.
15 Q Did you talk to him as you walked?
16 A Yes.
17 Q What did you say to him?
18 A I said, "Are you okay?"
19 Q And that's when he shook his head?
20 A He just grunted at me again, the same way he did
21 before. Then I said, "Do you want me to get a
22 trainer?" He grunted, and that's when I think he
23 shook his head no, or he shook his head.
24 Q Can you draw the line the two of you walked?
25 A I was ahead of him probably five yards. I was

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1 A No.

2 Q Okay. Did you ever see Korey hit Big Bertha?

3 A Yeah, I did.

4 Q Was that before he was lying on the ground or
5 after?

6 A After he was lying on the ground, he got up and
7 hit it.

8 Q Okay. Now, you and Korey walked together from the
9 pass sets up to the area where Big Bertha was,
10 right?

11 A Yeah, pretty much.

12 Q And the next thing -- was Korey still next to you
13 when he laid down?

14 A Like I said, I was probably about five yards ahead
15 of him and I was paying attention to what was
16 going on with Big Bertha, and then I looked over
17 and he was on the ground.

18 Q So your eyes were on Big Bertha?

19 A Yeah.

20 Q So the two of you are walking up the field, you're
21 a little bit ahead of him, and your eyes are on
22 Big Bertha. And then the next thing you know,
23 he's on the ground. If he had hit Big Bertha
24 before he had gone onto the ground, would you have
25 seen him hit it?

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1 MR. O'NEAL: Objection. Calls for
2 speculation. Go ahead.

3 A Yes, I would have seen him hit it.

4 Q Then you call for a trainer, you see a trainer
5 coming, and you walk over to Big Bertha and take
6 your turn?

7 A Right.

8 Q And then you saw Korey get up and walk over to Big
9 Bertha --

10 A I didn't see him get up. When I was done hitting
11 it, I don't know how much time had passed. The
12 next thing I know, I look up and he's in front of
13 Big Bertha. I didn't see him get up.

14 Q Did you hear anyone talk to him while he was lying
15 on the ground?

16 A I did not hear anybody talk to him, no.

17 Q Did you hear anybody talk about him while he was
18 lying on the ground?

19 A I did not.

20 Q Did you see him hit Big Bertha?

21 A I did.

22 Q And then what did you observe next?

23 A When he hit it -- what I remember is when he hit
24 Big Bertha, he pushed it all the way through. He
25 walked through, after he hit it, and walked

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1 towards the trailer.

2 Q Okay. When you say he hit it all the way through,
3 can you describe to me what you mean?

4 A Yeah. It hangs on a chain and so it swings when
5 you hit it. And when he hit it, he hit it enough
6 to where he could keep walking through. The bar,
7 if you look at the picture -- that picture right
8 there.

9 Q This picture, 4-J?

10 A Yeah. He hit it and it was swinging this way and
11 he walked through this way towards the trailer
12 (indicating).

13 Q Okay. So he basically hit it so that he had room
14 to walk through it?

15 A Right. He hit it hard enough and it swung out of
16 his way.

17 Q Did he hit it only once?

18 A I don't remember how many times he hit it.

19 Q Do you remember how many times you were supposed
20 to hit it in the drill?

21 A Yeah. Ten times.

22 Q Is that ten times each time you go up to Big
23 Bertha, or five times and then you take a break
24 and five times again?

25 A Ten times right in a row.

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1 Q And you don't know how many times Korey hit it?

2 A I don't, no.

3 Q Did you see a trainer with Korey at all, other
4 than you saw one walking towards him when he was
5 lying on the ground?

6 A I didn't pay any attention. No, I didn't see a
7 trainer with him.

8 Q Did you see -- after he walked through Big Bertha,
9 did you see him again?

10 A Yeah. He walked -- I saw him walking to -- to go
11 into the trailer.

12 Q Did you see him walking with someone?

13 A I don't remember seeing him walk with anybody.

14 Q During the time that you were at camp, training
15 camp, did you go into that trailer at all?

16 A I did, yeah.

17 Q When did you go in the trailer?

18 A I went in there -- the trailer was right by where
19 we lifted weights and I was early to go lift
20 weights and just went in there to see what it was,
21 see what was in there.

22 Q So you didn't go in there to cool off; you just
23 went in there for curiosity?

24 A Yeah.

25 Q And when was that?

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1 A Yeah, that was my interpretation.

2 Q But he never said a word?

3 A He didn't say, "No."

4 Q He didn't say anything?

5 A He didn't say anything.

6 Q And then it says, "and jumped up to jog over to
7 Big Bertha." Okay. Did you ever see him jump up
8 to jog over to Big Bertha?

9 A I didn't see him jump up. He was already up when
10 I saw him.

11 Q That's when he was down on the knee?

12 MR. O'NEAL: She's asking if you saw
13 him get up from the knee.

14 A I saw him get up from his knee, yeah.

15 Q Did he jump up?

16 MR. O'NEAL: Objection. Vague.

17 A I wouldn't say there was any air underneath his
18 shoes, if that's what you mean.

19 Q And as I understand your earlier testimony, he
20 didn't jog over to Big Bertha; he walked. Is that
21 correct?

22 A He might have taken a couple jogging steps, but he
23 didn't jog all the way over there, no.

24 Q Did you see Korey hit Big Bertha twice?

25 A I remember him hitting it at least one time. I

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1 don't remember him hitting it twice.

2 Q Did you see him stumble and go down on a knee when

3 he hit Big Bertha?

4 A I don't remember if he did or not.

5 Q Did you hear Matt Birk call for a trainer?

6 A I don't remember if he did.

7 Q And when you first saw Korey, when you were down

8 near the 40- or 50-yard line and he was on a knee,

9 did he have any kind of towel with him?

0 A I don't know.

1 Q If Chuck Barta testified that as head athletic

2 trainer, his responsibility is to care for the

3 athletes and the staff of the Minnesota Vikings,

4 do you agree with him?

5 MR. O'NEAL: Objection to the form of

6 the question as argumentative.

7 A (No response.)

8 MR. O'NEAL: You can answer the

9 question if you have an answer.

0 A If he testified that, I mean, he's been doing this

1 a lot longer. He knows what he's doing; I don't.

2 Q And if Chuck Barta testified that he's responsible

3 for overseeing the other athletic trainers and for

4 caring -- and caring for the athletes, would you

5 agree with him?

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1 MR. O'NEAL: Same objection.

2 A I wouldn't argue with him.

3 Q And if Dean Dalton had testified that it's his
4 role as a coach -- I'm sorry, it's the role of
5 Mike Tice, as a coach, and his, as an assistant
6 coach, to provide as safe as possible environment
7 for the players to perform, would you agree with
8 him?

9 MR. O'NEAL: Objection as
10 argumentative.

11 A I don't know. I mean, that's how he sees coaches
12 are. I told you how I saw what a coach would do.

13 Q And if Coach Tice testified that he felt that
14 Korey Stringer looked more muscular than he had
15 looked and that he was in good condition at
16 training camp, would you have any reason to
17 disagree with him?

18 MR. O'NEAL: Objection as argumentative
19 and multiple in form.

20 A Korey looked as good as I've ever seen him in my
21 four years, whatever, three years I was in
22 training camp. He looked as fit as he has ever
23 been.

24 MS. ROSELLE: I have nothing further.
25 Thank you.

Kevin Cory Withrow, 5/30/2002

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1 MR. O'NEAL: Do you have any questions?
2

3 MR. MORGAN: I have no questions.
4

5 MR. O'NEAL: I have a couple.
6

EXAMINATION

7 BY MR. O'NEAL:
8

9 Q Mr. Withrow, at any time up to the point you were
10 told Korey had been taken into the hospital, had
you seen, heard, or observed anything that
suggested to you that there was anything seriously
wrong with Korey?

11 MS. ROSELLE: Objection.
12

13 BY MR. O'NEAL:
14

15 Q Korey Stringer.
16

17 A No.
18

19 Q Did you, at any time during the 2001 training
camp, see or hear anyone taunt or embarrass Korey
in any way that you found to be inappropriate or
unacceptable?

20 MS. ROSELLE: Objection.
21

22 A No, I didn't.
23

24 Q At any time on Tuesday, July 31, did you see Mike
Tice holding up a newspaper photograph to Korey
Stringer?
25

MS. ROSELLE: Objection.

A No, I did not.

Billy McFarland

Deposition Excerpts

Kelci Stringer, et al. vs. MN Vikings Football Club, et al.

Deposition of Billy Robin McFarland 3/20/02

Page 1 to Page 105

CONDENSED TRANSCRIPT AND CONCORDANCE
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BSA

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1	A I don't recognize any of them. I mean I recognize them just as spectators who somehow got a field pass for that day to come and watch, but I don't know who any of them are.
2	Q I notice that at least two of them have a blue tag.
3	A Yes.
4	Q Is that a field pass?
5	A Yes.
6	Q Where would a spectator or a guest obtain a field pass?
7	A It would have to come from Vikings public relations somehow, through some means. I don't know. It may have been given to them by -- it could come to them from marketing or they could be sponsors or they could be just -- for some reason they're guests for the day allowed on the field to watch the practice.
8	Q Is that the same sort of field pass that you received?
9	A No.
10	Q Are you aware of what the difference would be in terms of access or mobility?
11	A I'm not strictly aware, but I know there are differences.
12	Q All right. Then I wanted to ask you about Photograph 61 in Card 4. Does that correspond to Photograph 4-K?
13	A Yes.

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1	Q Where Korey Stringer is in relation to what's depicted in that photograph or where Korey Stringer was at the time based on your observation.
2	A He's just -- just out of the frame to the left.
3	Q Okay. How many feet away would you place him?
4	A From me?
5	Q Actually from where Mike Tice is standing.
6	A From Mike Tice he's probably 25 feet.
7	Q Now, in reference to Photograph 61, what you've described to us, did you observe the process of Korey Stringer collapsing onto the field?
8	A Yes.
9	Q Describe that for us, please.
10	A When I -- after shooting Photograph Number 60, I observed Korey dropping to his knees and -- and then he fell onto his right side with his knees sort of pulled up towards his stomach and was holding his -- holding his abdomen and his stomach, and then I got into position to take the photograph that I took there as he -- as he let go of his stomach and threw his hands back and his hands flopped back over his head onto the ground.
11	Q Okay. How far away from him were you standing when you shot Photograph 61?
12	A That's a wide-angle lens so I was -- I was probably no

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1	Q Can you describe what is depicted in that photograph?
2	A The pads from the players that they shed after the practice was over; and there are spectators on the edge of the field, between the fields, and offensive linemen in a line to hit the tackling dummy; and -- and Korey Stringer has collapsed on the field.
3	Q Can you tell me in time how far apart Photograph 60 and 61 were taken?
4	A Just a matter of less than a minute.
5	Q Okay. If you can help us orient ourselves, I see that in Photograph 60, Card 4, Matt Birk is hitting the blocking dummy. By the way, is that known as Big Bertha?
6	A I believe so, yes.
7	Q And given that you've told us these are taken seconds apart, can you help us orient where Korey Stringer would have been in reference to what's depicted in Photograph Number 60?
8	MR. O'NEAL: Objection to the extent it calls for speculation. Obviously he can say what he observed.
9	Q (By Mr. DeMarco) Based on your observation.
10	A Photograph 60?
11	Q Yes.
12	A What was -- where things are?

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1	more than 10 feet away.
2	Q And was anyone blocking your vision of him?
3	A At this point?
4	Q At the time you shot Photograph 61.
5	A No.
6	Q In order to shoot Photograph 61, did you have to move from where you were standing at the time you shot Photograph 60?
7	A Yes.
8	Q How long did Korey Stringer remain on the ground after he collapsed as depicted in Photograph 61?
9	A I can't -- I can't answer that specifically.
10	Q Can you approximate it?
11	A I would say -- how long did he stay on the ground in that position before he was --
12	Q Yes.
13	A My impression is about five minutes.
14	Q I notice in the corner of Photograph 61 -- I see two hands and one -- what appears to be one leg and part of someone's head. Can you identify any person or persons that were in the corner of that photograph?
15	A Not specifically.
16	Q Do you recall that there were any persons there? I mean independent of the photograph itself.
17	A I was not -- I was not -- they didn't make an

BSA

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1 impression on me when I shot the photograph.
 2 Q Okay. Was Korey Stringer making any noise as he lay
 3 on the field after collapsing?
 4 A Yes.
 5 Q What kind of noise did he make?
 6 A I would describe it as a deep agonizing groan.
 7 Q How loud would you describe it as having been?
 8 A It was -- it was quite audible to me at 10 feet away
 9 or so. It wasn't --
 10 Q You didn't have any trouble hearing it.
 11 A I had no trouble hearing it.
 12 Q Did you notice anyone else notice Korey on the ground?
 13 A No.
 14 Q Were there Vikings personnel close by Korey at the
 15 time he lay on the ground after collapsing?
 16 MR. OLSON: If you understand --
 17 MR. O'NEAL: It looks like there were a
 18 number of them in the photograph.
 19 MR. OLSON: What do you mean by
 20 personnel? Players? Coaches? Staff? Ball boys?
 21 MR. DeMARCO: Any of those.
 22 A Yes.
 23 Q Can you identify any of them based on your
 24 recollection?
 25 A That were in the -- well, Matt Birk, the other

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1 Q Can you identify anybody, please?
 2 A People in the photographs that were close -- close
 3 enough to Korey to hear -- to be in a position to
 4 help. Is that the question?
 5 Q Yeah. Can you identify anyone in either Photograph 60
 6 or 61 who was in a position, whether in proximity or
 7 capacity, to help Korey Stringer as he lay on the
 8 ground after collapsing?
 9 A Identify them by name or --
 10 Q Or by grouping or however you want to do it.
 11 A Yes. There were coaches and players present.
 12 Q So the coaches and players that are identified in
 13 Photographs 60 and 61?
 14 A Yes.
 15 Q Those that you've identified specifically before --
 16 A Yes.
 17 Q -- by name and those that you didn't identify.
 18 A Yes.
 19 MR. DeMARCO: Can we take a little
 20 break?
 21 THE WITNESS: Sure.
 22 (A short recess is taken.)
 23 Q (By Mr. DeMarco) I just have a few more questions for
 24 you. The photographs that are contained in Exhibit 2,
 25 were any of those cropped?

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1 lineman, and Mike Tice. I don't know -- I don't know
 2 many of them by names. You can read their names on
 3 their jerseys.
 4 Q Did you observe any of them attempt to help Korey
 5 Stringer?
 6 MR. ALSOP: At any time? The time is
 7 vague.
 8 Q (By Mr. DeMarco) Well, let me be more specific. As
 9 he lay on the ground after collapsing did you observe
 10 anyone attempt to help Korey Stringer?
 11 A No.
 12 Q Were there any Vikings personnel -- meaning coaches,
 13 players, trainers, interns -- who were in a position
 14 to help Korey Stringer as he lay on the ground after
 15 collapsing?
 16 MR. O'NEAL: Object as vague.
 17 MR. DeMARCO: Go ahead and answer.
 18 A Yes.
 19 Q Can you identify anyone in either Photograph 60 or 61
 20 who was in a position to help Korey Stringer as he lay
 21 on the ground after collapsing?
 22 MR. O'NEAL: Object as vague. I don't
 23 know what "in a position to help" means.
 24 MR. DeMARCO: Go ahead and answer.
 25 A Yes.

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1 A No.
 2 Q Were any of those altered in any way?
 3 A No.
 4 Q Following the death of Korey Stringer were you
 5 interviewed by any member of the media?
 6 A Yes.
 7 Q By whom?
 8 A Esme Murphy from WCCO.
 9 Q And can you tell me about that encounter?
 10 A How it came about or --
 11 Q Yes.
 12 A -- what happened during it?
 13 Q How it came about and what happened during it.
 14 A Well, I had given Bob Lurtsema copies of these
 15 photographs so that he could pick what he wanted to
 16 use in his paper, and when Korey died I was contacted
 17 by several -- several different sort of types of media
 18 because I was really the only photographer there, to
 19 my knowledge, shooting.
 20 I called Bob Lurtsema and told him "Do not use
 21 any of those photographs." He had me on a speaker
 22 phone and was being interviewed by Esme Murphy. She
 23 tracked me down, showed up at my house in Lonsdale
 24 with a cameraman and wanted to know what I had seen,
 25 and I told her as little as possible about what I had

Daniel Kearney

Deposition Excerpts

Daniel J. Kearney, 5/28/2002

Page: 1

1 STATE OF MINNESOTA
2 COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

3 - - - - -
4 Kelci Stringer, individually, and as
5 Personal Representative of the Estate
6 of Korey Stringer, and as Trustee for
7 the Heirs and Next-of-Kin of Korey
Stringer, and Kodie Stringer, a Minor,
through his Parent and Natural Guardian,
Kelci Stringer, and Cathy Reed-Stringer
and James Stringer,

8 Plaintiffs,

9 v.

10 Minnesota Vikings Football Club, LLC,
11 and Dennis Green and Michael Tice and
12 Fred Zamberletti and Chuck Barta and W.
13 David Knowles, M.D. and Mankato Clinic,
Ltd. and John Does 1 through 30 Natural
Persons or Entities Whose Names or
Identities are Unknown to Plaintiffs,

14 Defendants.

15 - - - - -
16
17 DEPOSITION OF

18 DANIEL J. KEARNEY

19 Taken May 28, 2002
20 Commencing at 9:50 a.m.

21
22 REPORTED BY DEBRA MCCUALEY POLLARD
23 PARADIGM REPORTING & CAPTIONING INC.
1400 RAND TOWER
24 527 MARQUETTE AVENUE SOUTH
25 MINNEAPOLIS, MINNESOTA 55402
(612) 339-0545

Daniel J. Kearney, 5/28/2002

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- 1 A No.
- 2 Q Did you convey to him that time was really
3 important?
- 4 A I tried to.
- 5 Q Okay. How did you do that?
- 6 A With the tone of my voice and saying that we
7 needed him now.
- 8 Q And did he come right away?
- 9 A Yes.
- 10 Q How long do you think you were in the Taylor
11 Center from the time you first got to the Taylor
12 Center till the time you and Fred were back on the
13 golf cart?
- 14 A About two or three minutes.
- 15 Q And then you went back on the golf cart to the
16 trailer, correct?
- 17 A Yes.
- 18 Q And how long did that take?
- 19 A Maybe 30 seconds.
- 20 Q When you got to the trailer, what happened?
- 21 A Fred and I walked in. Fred told me to get a
22 Ziploc bag to put over Korey's mouth because he
23 might be hyperventilating and he had Paul call Dr.
24 Knowles.
- 25 Q Did Fred ask for the Ziploc bag before he looked

Daniel J. Kearney, 5/28/2002

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1 at Korey?

2 MR. O'NEAL: Objection. Lack of
3 foundation.

4 A No.

5 Q Okay. He looked at Korey and then he turned to
6 you and asked you to get him a Ziploc bag?

7 A Yes.

8 Q And where did you have to go to get the Ziploc?

9 A There was one in a cooler inside the trailer.

10 Q And you brought that over to Fred?

11 A I put it right on Korey.

12 Q So you took the bag, you opened the bag, and you
13 put it over Korey's mouth and nose?

14 A Correct.

15 Q And then what happened?

16 A Paul called Dr. Knowles. I held the bag there for
17 about a minute, minute and a half, and then
18 stopped.

19 Q Did it change his breathing at all?

20 A Not really.

21 Q Why did you stop?

22 A Fred told me to.

23 Q Did Fred explain why you should stop?

24 A Not that I can remember.

25 Q When you came back to the trailer with Fred, was

Daniel J. Kearney, 5/28/2002

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1 Korey's breathing different than it had been when
2 you left the trailer to go get Fred?

3 A Could you repeat that again, please?

4 MS. ROSELLE: Would you read it back,
5 please?

6 (The last question was read.)

7 A Yes.

8 Q How had it changed?

9 A It was more rapid and shallow.

10 Q How had his breathing been when you went to the
11 trailer the first time with the golf cart? Did
12 you observe Korey's breathing then?

13 A It wasn't as shallow or rapid as it was when I got
14 back with Fred.

15 Q Okay. When you were in the trailer the first
16 time, when you turned Korey on his side, was his
17 breathing somewhat rapid and shallow?

18 MR. O'NEAL: Object as vague.

19 A Yes.

20 Q But not as rapid and shallow as it was when you
21 got back with Fred, correct?

22 A Yes.

23 Q Okay. You put the bag on his face for one to one
24 and a half minutes and you didn't notice any
25 change in Korey's breathing and then you stopped

Daniel J. Kearney, 5/28/2002

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1 the bag because Fred told you to, correct?

2 MR. O'NEAL: Multiple in form. If any
3 of those things are not correct, you can say so.

4 A Yes.

5 Q Okay. What happened next?

6 A I stayed there next to Korey while Paul was
7 calling Dr. Knowles and the ambulance.

8 Q And how long was that?

9 A I can't make a good estimate.

10 Q Did Fred talk to you during that time?

11 A Not that I can remember.

12 Q What was Fred doing?

13 A He had gone outside with Paul.

14 Q Were they talking?

15 A I don't know.

16 Q Am I correct, you were the only one, at that time,
17 in the trailer with Korey?

18 A I believe so.

19 Q And how long a period do you believe that you and
20 Korey were the only two people in the trailer?

21 A Not very long.

22 Q Five minutes?

23 A No. Much shorter than that.

24 Q Three minutes?

25 A A minute, at most.

Daniel J. Kearney, 5/28/2002

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1 the training camp?

2 MS. ROSELLE: Yes.

3 A Yes.

4 Q Now, as I understand your testimony, the last two
5 words that Korey Stringer ever said to you were
6 "thank you"; is that correct?

7 A That I can remember, yes.

8 Q And that was on Monday, when you gave him two
9 bottles of Gatorade?

10 A Yes.

11 Q While you were with Korey on Tuesday, did either
12 Paul or Fred ever ask you to call anyone?

13 A No.

14 Q And when you got to the trailer the first time,
15 was Korey humming at all?

16 A Not that I can remember.

17 Q Was he making any noise the first time you got to
18 the trailer, other than this saliva or fluid that
19 you've described?

20 A I don't think so.

21 Q And when you came back with Fred the second time,
22 was Korey making any noise, other than the saliva
23 or the fluid that you've described?

24 A He would occasionally groan.

25 Q And can you describe what those groans were like?

Daniel J. Kearney, 5/28/2002

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1 A It was very -- it's really hard to describe. It
2 was more of like just a -- I can't really even
3 describe it in words. It was like he was trying
4 to make sounds or --

5 Q Was it like a grunting?

6 A Not really. It was more of just a groan where --
7 like someone was trying to wake a person up and
8 they groan. It sounded sort of like that.

9 Q And that's the second time when you came to the
10 trailer with Fred --

11 A Yes.

12 Q -- that you heard this groaning?

13 A Yes.

14 Q But you didn't hear it the first time when you
15 were just there with Paul?

16 A I could have. I wasn't there a long time.

17 Q What about on the field? Was it the same kind of
18 groaning you heard on the field or was it
19 different groaning than you had heard on the
20 field?

21 A It was different.

22 Q How was it different?

23 A On the field, it was like Korey saying like, "Oh,
24 I'm not feeling well," and like he was making the
25 noise himself, where in the trailer, the second

Daniel J. Kearney, 5/28/2002

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1 time, it was -- it wasn't that he was trying to
2 communicate.

3 Q Do you think it was like an involuntary groan the
4 second time?

5 A I believe so.

6 Q When you left the trailer the first time, did you
7 have a sense that there was an urgency to get help
8 to Korey?

9 A Yes.

10 Q And did you -- when Fred got there, did you
11 observe Fred's reaction to what he observed?

12 A Yes, a little bit.

13 Q Did you get -- what was your observation of Fred's
14 reaction?

15 MR. O'NEAL: Don't guess or speculate.
16 You can describe what you observed.

17 A It was a sense of urgency to get what he asked and
18 get it quickly.

19 Q Did you have the impression that Fred immediately
20 recognized this as a medical emergency?

21 MR. O'NEAL: Objection. Lack of
22 foundation; calls for speculation.

23 A Yes.

24 Q And what did you observe that makes you believe
25 that Fred knew immediately that this was a medical

Daniel J. Kearney, 5/28/2002

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1 emergency?

2 MR. O'NEAL: Same objection. Don't
3 guess or speculate.

4 A I don't really know.

5 Q Now, other than the statement that we've marked as
6 an exhibit here, have you made any written
7 statements about what happened on July 31st, 2001?

8 A No, I haven't.

9 Q Did you give an interview to OSHA?

10 A No, I didn't.

11 Q Okay. Did you meet with Amy Freestone and Jim
12 O'Neal sometime last fall?

13 A Yes.

14 Q Do you recall describing anything to Amy Freestone
15 or Jim O'Neal that you have not described here
16 this morning?

17 MR. O'NEAL: I think that invades the
18 attorney/client privilege. I wouldn't object to a
19 question like: Is there anything you specifically
20 recall about this incident you haven't described
21 to me, but I don't think you're entitled to know
22 what he said to his lawyers.

23 MS. ROSELLE: All right. I take it,
24 from what you just said, that you're representing
25 Mr. Kearney?